

1 Rule 11-521.~~(b)~~ OPC prosecutorial Powers and duties.

2 (a) The ~~senior~~Chief Disciplinary eCounsel ~~shall~~will perform all prosecutorial functions  
3 and have the following powers and duties, which may be delegated to other staff:

4 (1) Screen all information coming to the attention of the OPC to determine  
5 whether it is within the jurisdiction of the OPC in that it relates to misconduct by  
6 a Lawyer or to the incapacity of a Lawyer~~;~~.

7 (2) Investigate all information coming to the attention of the OPC which, if true,  
8 would be grounds for discipline or transfer to disability status, and investigate  
9 all facts pertaining to petitions for reinstatement or ~~readmission~~relicensure~~;~~.

10 (3) Choose to dismiss, decline to prosecute, refer nonfrivolous and substantial  
11 Complaints to the Committee for hearing, or petition the district court for  
12 transfer to disability status.~~for each matter not covered in Rule 14-510 brought to~~  
13 ~~the attention of the OPC;~~

14 ~~(b)(3)(A) dismiss;~~

15 ~~(b)(3)(B) decline to prosecute;~~

16 ~~(b)(3)(C) refer non-frivolous and substantial informal complaints to the~~  
17 ~~Committee for hearing; or~~

18 ~~(b)(3)(D) petition to the district court for transfer to disability status;~~

19 (4) Prosecute before the screening panels, the district courts, the Supreme  
20 Court, and any other courts, including but not limited to, any court of the United  
21 States all disciplinary cases and proceedings for transfer to or from disability  
22 status~~;~~.

23 (5) Attend the Character and Fitness Committee proceedings in all cases for  
24 ~~readmission~~relicensure, and represent the OPC before the district courts,  
25 Supreme Court, and any other courts including, but not limited to, any court of  
26 the United States in all cases for reinstatement and ~~readmission~~relicensure~~;~~.

27 (6) Employ or appoint and supervise staff needed for the performance of  
28 prosecutorial functions and delegate such responsibilities as may be reasonably  
29 necessary to perform prosecutorial functions, including supervising attorneys  
30 who provide pro bono services to the Bar, by supervising the practice of  
31 Respondents who have been placed on probation;

32 (7) Notify each jurisdiction in which a Respondent is ~~admitted~~ licensed of a  
33 transfer to disability status or any public discipline imposed in Utah;

34 (8) Sseek reciprocal discipline where appropriate when informed of any public  
35 discipline imposed by another court, another jurisdiction, or a regulatory body  
36 having disciplinary jurisdiction;

37 (9) Forward a certified copy of the judgment of conviction to the disciplinary  
38 agency in each jurisdiction in which a Lawyer is ~~admitted~~ licensed when the  
39 Lawyer is convicted of a crime in Utah which reflects adversely on the Lawyer's  
40 honesty, trustworthiness, or fitness as a Lawyer;

41 (10) Maintain ~~permanent~~ records of discipline and disability matters subject to  
42 any expungement requirements and compile statistics to aid in the  
43 administration of the system, including but not limited to, a log of all ~~informal~~  
44 eComplaints received, investigative files, statistical summaries of rules violated  
45 and dispositions, any transcripts of proceedings, and other records as the  
46 Supreme Court requires to be maintained;

47 ~~(b)(11) expunge after seven years all records or other evidence of the~~  
48 ~~existence of any informal complaint terminated by dismissal or a~~  
49 ~~declination to prosecute;~~

50 ~~(b)(11)(A) Notice to respondent. If the respondent was contacted by~~  
51 ~~the OPC concerning the informal complaint, or the OPC otherwise~~  
52 ~~knows that the respondent is aware of the existence of the informal~~

53 ~~complaint, the respondent shall be given prompt written notice of~~  
54 ~~the expungement.~~

55 ~~(b)(11)(B) Effect of expungement. After a file has been expunged,~~  
56 ~~any OPC response to an inquiry requiring a reference to the matter~~  
57 ~~shall state that there is no record of such matter. The respondent~~  
58 ~~may answer any inquiry requiring a reference to an expunged~~  
59 ~~matter by stating that no informal complaint was made.~~

60 (112) ~~P~~provide informal guidance concerning professional conduct to ~~L~~lawyers  
61 ~~of the Bar requesting guidance, participate in~~through seminars ~~which that~~ will  
62 promote ethical conduct, formulate diversionary programs, monitor probations,  
63 and disseminate disciplinary results to the Bar and the public through the Utah  
64 Bar Journal and otherwise as appropriate, while maintaining the confidentiality  
65 of ~~R~~respondents subject to private discipline, ~~and~~

66 ~~(b)(13) along with the executive director annually formulate the budget~~  
67 ~~for the OPC and submit the budget to the Board for approval. OPC~~  
68 ~~counsel may petition the Supreme Court for review of modifications to the~~  
69 ~~budget imposed by the Board.~~

70 ~~(e) Disqualification. In addition to complying with the Rules of Professional~~  
71 ~~Conduct regarding successive government and private employment (Rule 1.11 of~~  
72 ~~the Rules of Professional Conduct), a former OPC counsel shall not personally~~  
73 ~~represent a lawyer following completion of the OPC counsel's service in any~~  
74 ~~proceedings as provided in these rules which former OPC counsel investigated~~  
75 ~~or prosecuted during his or her employment by OPC.~~

76 Effective December 15, 2020